

REMARKS

1. Status of the Claims

Claims 1-11 are pending. The claims were not amended.

2. Rejection Based on 35 U.S.C. § 103(a)

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Heitritter et al. (U.S. Patent No. 5,824,355) in view of Lanter et al. (U.S. Patent No. 5,540,932). Applicants respectfully disagree. In response, they reiterate their prior arguments and note the following.

The currently pending claims are directed towards a method of preparing high energy protein protected ruminant feed; the claims are not directed towards the high energy protein protected ruminant feed. Heitritter is directed towards a method of manufacturing protein protected ruminant feed. Lanter is directed towards fat containing, extruded feed nuggets for ruminants, but methods of making the nuggets are also disclosed. The Office has combined the method of Heitritter and nugget of Lanter and stated that the currently pending method claims are obvious. When making this rejection, the Office did not discuss the methods taught by Lanter; rather, the Office seems to be rejecting the currently pending method claims because the Office believes the fat containing nuggets of Lanter make the high energy protein protected ruminant feed, i.e., the product of the currently pending method claims, obvious. Applicants reiterate that the currently pending claims are method claims, not composition claims.

Applicants submit that combining the methods disclosed in the two references would, at best, make the currently claimed invention obvious to try. Heitritter discloses a method similar to the currently claimed method, but it does not mention the addition of fat. Lanter discloses the addition of fat to an animal feed, but the methods disclosed in Lanter produce a nugget with “a water content of about 9 wt %.” See column 6, line 13. In contrast, the currently claimed method creates a feed having “about 12 to about 16 percent by weight.” So, the currently claimed method produces a feed with a higher moisture content than that disclosed in Lanter, but the same moisture content disclosed in Heitritter. There is no express, teaching, suggestion, or motivation to combine the two references to make the currently claimed invention. Combining the references would at best cause a person of ordinary skill in the art to combine the various methods disclosed in the cited references, which does not make the currently claimed method obvious.

Similarly, 1) Lanter teaches the use of an extruder, while Heitritter does not; and 2) Lanter runs the extruder at 100 °C, while Heitritter cooks the feed until the internal temperature is at least 200 °C. So, how would one of ordinary skill in the art combine these references? Again, at best, combining these references provides a starting point for the person of ordinary skill in the art as they try to make the currently claimed invention. There are numerous variables in each method, and many of them are different. So it is not clear to the Applicants how the person of ordinary skill in the art can combine the cited references and duplicate the currently claimed invention. Assuming that the level of ordinary skill in the art is sky high, it seems to the Applicants

that it would still be very difficult to combine two references that teach two methods that have some similarities, and yet also many differences.

Applicants further note that Lanter teaches the use of fat to increase the bypass protein level. So, one of ordinary skill in the art, combining the two cited references would develop a method that produces a fat containing protein, protected ruminant feed that exhibits increased bypass protein level when compared to non-fat containing protein protected ruminant feed. In fact, the currently claimed method does not produce a feed that exhibits this result, i.e., using fat in the currently claimed method does not affect bypass protein level when compared to feeds that do not use fat. Evidence of this can be found throughout the currently pending application. In particular, compare Test Product B to Test Products C or D in Table III; or Test Product F to Test Products G, H, or I; or Test Product K to Test Products L or M. In each case, the addition of fat does not increase the bypass protein level. Since the expected product is not produced, the currently claimed method must be different than the method that would be generated by the combination of the two cited references. Consequently, the currently claimed method is not obvious in view of the cited references. As such, the Applicants respectfully request reconsideration and withdrawal of this rejection.

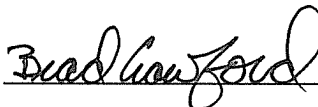
CONCLUSION

Applicants respectfully contend that all requirements of patentability have been met. Allowance of the claims and passage of the case to issue are therefore respectfully solicited.

Should the Examiner believe a discussion of this matter would be helpful, he is invited to telephone the undersigned at (312) 913-2114.

Respectfully submitted,

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